

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Richard William Mexico**
Docket No. **287052**
L.C. No. **07-000064 FC**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The application for leave to appeal filed on August 7, 2008, is DISMISSED for lack of jurisdiction because it was not filed within 12 months of the May 30, 2007 judgment of sentence as required by MCR 7.205(F)(3). Furthermore, MCR 7.205(F)(4) does not apply because the motion to correct the judgment of sentence regarding jail credit was not filed within 6 months of the judgment of sentence as required by MCR 6.429(B)(3). Lastly, the motion to correct jail credit was not filed in the trial court as a motion for relief from judgment, was not decided in the trial court as a motion for relief from judgment, and was not appealed in the Court of Appeals as an order denying a motion for relief from judgment. This Court can only accept this application for leave to appeal upon a finding that there was ineffective assistance of appellate counsel. *People v Means*, 480 Mich 989 (2007). However, given that the defendant took almost six months to request appellate counsel, and counsel's original conclusion was that no issues of merit existed, and ultimately it was the defendant who wanted the untimely motion filed, it cannot be concluded that defendant had ineffective assistance of appellate counsel.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 25 2008

Date

Sandra Schultz Mengel
Chief Clerk